

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**MOTION OF THE CLEC COALITION FOR EXTENSION OF TIME FOR FILING
PETITIONS FOR RECONSIDERATION UNTIL AFTER VERIZON'S COMPLIANCE
FILING AND LEAVE TO ELECTRONICALLY FILE ANY SUCH MOTION ON THE
DATE ESTABLISHED BY THE DEPARTMENT**

Allegiance Telecom of Massachusetts, Inc. and Conversent Communications of Massachusetts, LLC (collectively the "CLEC Coalition"), by their attorneys, hereby supports Verizon Massachusetts's July 23, 2002 request for additional time to file petitions for reconsideration of the Department's July 11, 2002 Order in D.T.E 01-20 ("Order"). The CLEC Coalition respectfully requests, however, that the date be extended from July 31, 2002, as provided by 220 C.M.R. § 1.11(10), to 20 days after Verizon files its compliance filing as directed in the Order or any subsequent date established by the Department. In addition, the CLEC Coalition requests leave to electronically file any such motion on the date the Department establishes with hard copies filed the following day.

The CLEC Coalition makes this request for two significant reasons. First, the CLEC Coalition agrees with Verizon that because of the complexity of the Order, the number of issues considered and ruled upon by the Department, the 485 page length of the Order, and the importance of the matter, the time for the filing of motions for reconsideration, *i.e.*, 20 days, is insufficient for

the task. Moreover, because of vacation schedules and resource constraints, not all CLEC Coalition personnel needed to work on a motion are available during the current reconsideration period.

Second, pursuant to the Order, Verizon is required to make its compliance filing on August 5, 2002, which is five days *after* motions for reconsideration are due. Because the Department made a number of significant changes to the inputs that Verizon must use in its recurring and nonrecurring cost models to generate final rates, the CLEC Coalition is unable to ascertain the overall impact the changes will have on rates until Verizon submits its compliance filing.¹ Consequently, the CLEC Coalition will be disadvantaged if it must file a motion for reconsideration prior to that time.

Importantly, the CLEC Coalition does not have the resources to anticipate how Verizon will implement the Department's substantive changes or to anticipate with certainty how those changes will affect final rates in the compliance filing. As Verizon stated in its July 23, 2002 request for extension of the compliance filing date and time for filing motions for reconsideration, "until Verizon MA fully reviews the Department's Order and begins to assess the impact on UNE rates, Verizon MA is not in a position to determine which issues (if any) to ask the Department to reconsider." The same holds true for the other parties, including the CLEC Coalition. It will help to narrow potential reconsideration issues and conserve the resources of both the Department and all parties if the compliance filing is made *before* reconsideration motions are due

¹ For example, the Department ordered that task times associated with nonrecurring and hot cuts charges be on the low end of a 95 percent confidence interval. Order at 438. In addition, the Department made a number of other adjustments to specific aspects of Verizon's hot cost study. Order at 458-466. The economic impact of these determinations on task times and resulting nonrecurring and hot cut rates will not be discernible to other parties with certainty until Verizon submits its compliance filing.

Further, Verizon has a tremendous advantage over CLECs with respect to filing a motion for reconsideration because it will *undoubtedly know or at least have a very good idea*, as it admitted, what impact the determinations made in the Order will have on its cost models and the resulting rates *prior to* filing a possible motion. Other parties will not have this advantage. The CLEC Coalition agrees with AT&T that Verizon's proposal would give Verizon an unfair advantage,² but believes that the remedy is to level the playing field by making Verizon put its cards on the table -- in the form of a compliance filing -- before any party is required to submit its motion for reconsideration. Notably, other state commissions, such as New York and New Jersey, among others, have provided parties with the UNE rates that result from initial UNE rate decisions prior to the due dates for filing motions for reconsideration or its equivalent.³ Clearly, parties other than Verizon will be prejudiced by not having such information when motions for reconsideration are due. By contrast, no party will be prejudiced by an extension of the reconsideration motion deadline until *after* the compliance filing - especially since the effective date of the rate change is when Verizon submits its compliance filing and not when motions for reconsideration are due.

For these reasons, the CLEC Coalition requests that the date for filing motions for reconsideration be extended from August 5, 2002 to 20 days after Verizon files its compliance filing. By extending the timeframe in this manner, all parties will have the rate information needed and sufficient time to prepare any possible motions for reconsideration of determinations made in

² See AT&T's Opposition to Verizon's Motion to Delay its Compliance Filing and the Submission of Motions for Reconsideration (e-mailed to parties on July 24, 2002).

³ See *Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements*, Case No. 98-C-1357, Recommended Decision, Appendix C Schedule 1 (N.Y. P.S.C. May 16, 2001); *In the Matter of the Board's Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic New Jersey, Inc.*, Docket No. TO00060356, Summary Order of Approval, Attachments A, B, & C (N.J. B.P.U. Dec. 17, 2001).

the Order. In addition, because parties will not want to waste their resources on issues that do not have a significant economic impact, the Department will be spared the burden of resolving motions for reconsideration that may have a firm theoretical foundation, but have little economic impact.

In addition, the CLEC Coalition, consistent with the filing procedure previously allowed it in this proceeding and the supporting reasons,⁴ requests leave to submit any motion for reconsideration it may file in electronic form on the due date established by the Department and to overnight hard copies to the Department for filing the following day.

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⁴ At the January 28, 2002, evidentiary hearing, the Hearing Officer granted the CLEC Coalition's motion for permission to file briefs in electronic form only on the due date, and to file hard copies the subsequent day. Tr. at 1891-1893.

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